

# **PUBLIC NOTICE**

# **US Army Corps** of Engineers<sub>®</sub>

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

**Public Notice/Application No.:** 200301554-YJC **Comment Period:** 09/27/2004 through 10/27/2004

Project Manager: Jae Chung (213) 452-3292 <a href="mailto:yong.i.chung@usace.army.mil">yong.i.chung@usace.army.mil</a>

# **Applicant**

Vestar Development 7575 Carson Boulevard Long Beach, California 90808

#### **Contact**

Twining Laboratories, Inc. 2527 Fresno Street Fresno, California 93721

## Location

The project area is located on the former Marine Corps Air Station in the City of Tustin, Orange County, California (at: lat:33-41-44.9880 lon:117-49-28.9920). The site is on the northwest intersection of Jamboree Road and Barranca Parkway (See Figure 1). The affected waterbodies are Barranca Channel and unnamed tributaries to Barranca Channel.

### **Activity**

The proposed activity is the discharge of fill material into approximately 2.78 acres of waters of the U.S., including 2.29 acres of wetlands associated with a commercial development. For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District Regulatory Branch ATTN: CESPL-CO-R-200301554-YJC P.O. Box 532711 Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: yong.j.chung@usace.army.mil

#### **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

# **Preliminary Review of Selected Factors**

**EIS Determination**- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it will not affect coastal zone resources. A final determination of whether this project affects coastal zone resources will be made by the Corps, in consultation with the California Coastal Commission, after review of the comments received on this Public Notice.

<u>Cultural Resources</u>- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

**Endangered Species**- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

**Public Hearing**- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

# Proposed Activity for Which a Permit is Required

This public notice for the project was previously published on May 26, 2004. This public notice is issued again, because project modifications would impact a longer reach of Barranca Channel comprising an additional 0.71 acre of waters of the U.S. (all wetlands). The additional impacts are a substantial increase.

The proposed activity is the discharge of fill material into approximately 2.78 acres of waters of the U.S. (WoUS), including 2.29 acres of wetlands associated with a commercial development. The proposed project involves the removal of existing drainage structures and the development of retail shopping spaces, including a movie theater. The new work proposed since publication of the last public notice includes the expansion of Barranca Parkway involving creation of a covered reinforced double box concrete culvert for the portion of the project that runs parallel to the Parkway and improvements to the project south of Barranca Parkway.

# **Additional Project Information**

**Historical and Environmental Setting**- The project site is the former Marine Corps Air Station (MCAS) in the City of Tustin occupying 1,153 acres. The project is one component of the reuse of the Marine Corps Air Station, which was evaluated in the Final Environmental Impact Statement / Environmental Impact Report dated December 1999. The Tustin MCAS was one of the bases closed by the Defense Base Closure and Realignment Act of 1991. Closed bases were turned over to local government for redevelopment to help meet needs for housing, employment, recreation, education, and community support. As part of the closure process, a Base Closure Task Force was formed in 1992 and started the re-development process.

The former Marine Corps Air Station consists of infrastructure to support military operations including roads, military housing, aircraft runways, and supporting maintenance buildings. The specific project site consists of a few decommission buildings, roadways, and annual grasslands.

**Southwestern Pond Turtle**- The project will eliminate the habitat for a few individual southwestern pond turtles (*Clemmys marmorta pallida*) found in Segment 1 (Figure 1). The California Department of Fish and Game has been contacted concerning the presence of the turtles. Due to the small number and the location of the population within an urbanized setting, the likelihood of long-term viability of the turtles at this location is low because of potential in-breeding and exposure to urbanized hydrology and pollutants. The mitigation plan consists of protocol capture surveys, capture of the turtles, relocation to an approved wildlife preserve, and a five-year monitoring plan. The lead biologist for the turtle relocation is Bobby Goodman, who was approved by the California Department of Fish and Game (CDFG) for the task. The U.S. Fish and Wildlife Service has been contacted and said that their concerns would be addressed by the CDFG.

Wetlands and Other Waters of the U.S.- There are a total of 2.78 acres of waters of the U.S., including 2.29 acres of wetlands associated with a commercial development (Table 1, Figures 1 and 2). The waters of the U.S. represent Barranca Channel and unnamed tributaries to Barranca Channel. The most prevalent vegetative association associated with Barranca Channel is cattails (*Typha* spp.). Although the remainder of Barranca Channel is unvegetated, it is still considered a wetlands under Corps regulations due to active wetland plant removal for flood control purposes. Four primary vegetative associations were identified within the tributaries to Barranca Channel. The most prevalent vegetation community (Segments 1, 2, and 5) is dominated by southern cattail (*Typha domingensis*) with some California bulrush (*Scirpus californicus*). The second vegetation association (Segment 1f) is dominated by umbrella sedge (*Cyperus eragrostis*) and salt grass

(*Distichlis spicata*). The third vegetation association (Segment 2a) consists of some shrubby black willows (*Salix goodinggii*). The last vegetation association (Segments 7b and 7c) consists of the non-native Spanish sunflower (*Pulicaria paludosa*) and salt-marsh fleabane (*Pluchea odorata*).

Table 1. Impacts to waters of the U.S.

Segment	Length	WoUS	Wetlands
_	(feet)	(acres)	(acres)
1a	1216	0.73	0.73
1b	718	0.25	0.25
1c	297	0.08	0.08
1d	304	0.08	0
1e	203	0.06	0
1f	380	0.08	0
2a	815	0.19	0.19
2b	909	0.05	0
3	294	0.11	0.11
4	306	0.05	0.05
5	160	0.00	0
6	661	0.08	0
7a	28	0.00	0
7b	76	0.00	0
7c	37	0.00	0
7d	0	0.00	0
8	501	0.14	0
9a	308	0.01	0
9b	400	0.00	0
10	77	0.00	0
11	115	0.00	0
Barranca Channel	322	0.87	0.87
Total		2.78	2.29

**Purpose and Need**- The purpose of the proposed project is construction of a financially-viable commercial development within the Tustin MCAS reuse area. The project will allow for the reuse of a redevelopment area brought by a military base closure.

**Detailed Project Description**- The overall project associated with the discharge of fill materials is a commercial development that would use approximately 117 acres of the 1,153 acres on the former Marine Corps Air Station in the City of Tustin (Figures 3, 4, and 5). As part of the development, the current open channel-based storm water drain system would be replaced by a pipe storm drain system that would accommodate 100-year flows. To meet this goal and develop this portion of the base proposed in this project, the current set of drainage channels will need to be removed and the pipe system will be installed, resulting in permanent impacts to waters of the U.S. Specific elements of the project include:

- 1) Approximately 2,138 linear feet of the Barranca Channel will be converted to a double reinforced concrete box channel;
- 2) A lateral drainage channel to the Barranca Channel (Segment 9a) will be converted to a 42-inch pipe;
- 3) The southern portion of the drainage channel parallel to Jamboree Road (Segment 1a) will be

- converted to an 84-inch pipe and the north end of this drainage channel (Segment 1e) will be converted to a 74-inch pipe;
- 4) A large lateral drainage channel (Segment 2a) draining to Segment 9a mentioned above will be converted to a 78-inch pipe; and
- 5) All other drainage channels that currently exist will be filled during grading operations.

Compensatory Mitigation - Compensatory Mitigation for impacts to wetlands and other waters of the U.S. will be mitigated at an off-site location. The applicant is examining off-site mitigation opportunities and will have an approved plan in place prior to the September 2004 start date. Although the possibility of of-site compensatory mitigation was discussed with the Corps, it was not deemed practical. On-site restoration would create habitat that is surrounded by urban landscape and would provide no connectivity to other resources.

An alternative site location for compensatory mitigation would be in Bee Canyon Channel near the former Lambert Reservoir on University of California Cooperative Extension property. A current riprap channel would be restored to natural wetland habitat in order to connect a future Great Park riparian corridor to the south with additional wetland habitat to the north.

# **Proposed Special Conditions**

The Corps proposes the following special conditions.

- 1) The permittee must submit a compensatory mitigation plan for approval. The permittee may not discharge of fill materials until the Corps approves a compensatory mitigation plan.
- 2) The permittee must submit a southwestern pond turtle relocation plan. The permittee may not discharge fill materials until the Corps and the California Department of Fish and Game have approved of the relocation program and all the southwestern pond turtles have been relocated in accordance with the plan.

For additional information please call Jae Chung of my staff at (213) 452-3292. This public notice is issued by the Chief, Regulatory Branch.

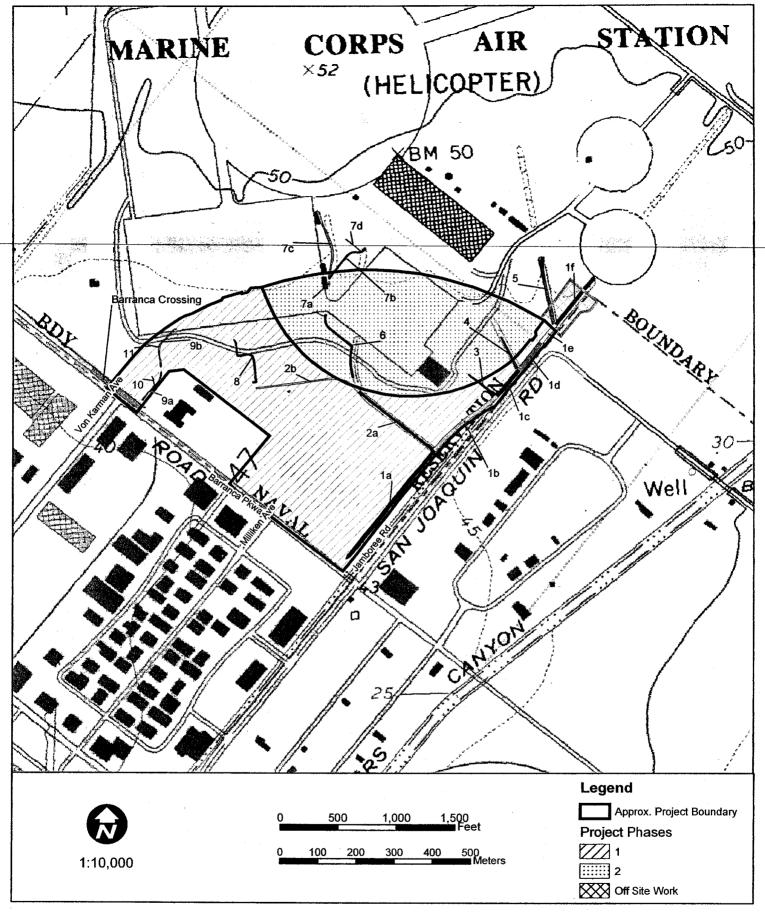




Figure 1

404 Permit Overview Map

Vestar Development - Tustin MCAS Orange County, CA

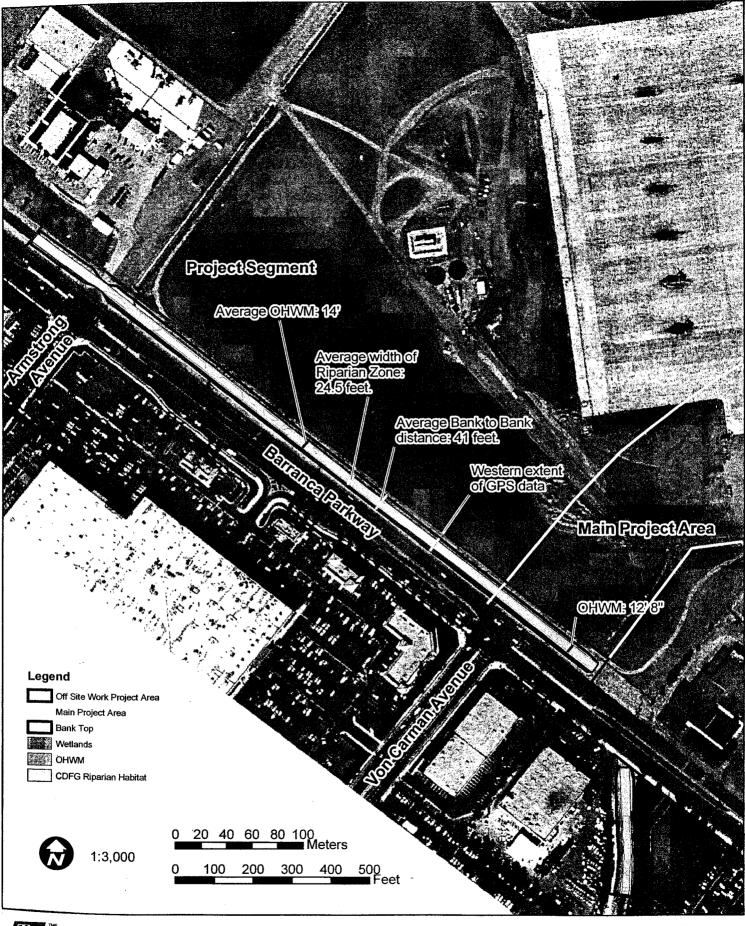




Figure 2
Project Site Map
Vestar Development - Tustin MCAS
Orange County, CA

